

1 THE HONORABLE MARC BARRECA  
2 Chapter 7  
3 Place: Marysville Municipal Court  
4 1015 State Avenue  
5 Marysville, WA 98270  
6 Hearing Date: September 12, 2018  
7 Time: 10:00 a.m.  
8 Response Date: September 5, 2018

9

10 UNITED STATES BANKRUPTCY COURT FOR  
11 THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

12 In Re:

13 Jean Michale Guerin,

14 Debtor.

Chapter 7

CASE NO. 18-10438  
TRUSTEE'S OBJECTION TO AMENDED  
EXEMPTIONS

15 I. TRUSTEE'S OBJECTION TO AMENDED EXEMPTIONS

16 The trustee objects to the latest amendment to Schedule C that was filed on July 13, 2018 (docket  
17 #58). As already noted in a previous filed objection and memorandum (docket #22 and #29), the trustee  
18 objects again to the debtor claiming a "100% of fair market value, up to any applicable statutory limit,"  
19 in any assets and allow him to "walk away" with the asset itself and potentially denying any benefit from  
20 any post-petition appreciation benefitting creditors. The trustee incorporates by reference the  
21 previously filed objection and memorandum. The court already sustained the trustee's objection on  
22 May 21, 2018 (docket #40). See Order Granting Trustee's Objection to Exemptions, attached as  
23 Exhibit 1. Therefore, the law of the case applies. The law of the case doctrine provides that "when a  
24 court decides upon a rule of law, that decision should continue to govern the same issues in subsequent  
25 stages in the same case." Arizona v. California, 460 U.S. 605, 618, 103 S.Ct. 1382, \_\_\_, 75 L.Ed.2d  
26 318, \_\_\_(1983), decision supplemented 466 U.S. 144, 104 S.Ct. 1900, 80 L.Ed.2d 194 (1984). Even  
27 TRUSTEE'S OBJECTION TO AMENDED  
EXEMPTIONS - 1

MICHAEL P. KLEIN  
Chapter 7 Trustee  
330 Madison Ave. S., Suite 110  
Bainbridge Island, WA 98110  
(206) 842-3638

though a court has the discretion to revisit a prior decision, a court “should loathe to do so in the absence of extraordinary circumstances such as where the initial decision was ‘clearly erroneous and would work a manifest injustice.’” Christianson v. Colt Industries Operating Corp., 486 U.S. 800, 817, 108 S.Ct. 2166, \_\_\_, 100 L.Ed.2d 811, \_\_\_ (1988).

The debtor’s counsel should be subject to sanctions since he continually persists that it is appropriate to claim an exemption of 100% of fair market value or the like. See In re Gregory, 487 B.R. 444, 454-455 (Bankr.E.D.N.C. 2013). The trustee suggests sanctions against debtor’s counsel of \$1,000.00 pursuant to Federal Rule of Bankruptcy Procedure 9011.

## II. CONCLUSION

The Trustee seeks the entry of an order consistent with the foregoing.

DATED this 6<sup>th</sup> day of August, 2018.

/s/ Michael P. Klein  
Michael P. Klein, Chapter 7 Trustee

## DECLARATION

I, Michael P. Klein, hereby declare as follows:

1. I make this declaration based upon my personal knowledge and I am competent to testify hereto.
  2. I am the Chapter 7 trustee in this case. I have been a Chapter 7 panel trustee since 1998. I am also an attorney and a licensed real estate designated broker. I have owned and operated Bainbridge Real Properties, LLC located at 330 Madison Ave. S., Suite 110, Bainbridge Island, WA 98110 since 2006.

I declare that the foregoing is true under penalty of perjury of the laws of the State of Washington.

DATED this 6<sup>th</sup> day of August, 2018.

/s/ Michael P. Klein  
Michael P. Klein

## **TRUSTEE'S OBJECTION TO AMENDED EXEMPTIONS - 2**

**MICHAEL P. KLEIN**  
Chapter 7 Trustee  
330 Madison Ave. S., Suite 110  
Bainbridge Island, WA 98110  
(206) 842-3638

Below is the Order of the Court.



   
Marc Barreca

U.S. Bankruptcy Judge

(Dated as of Entered on Docket date above)

UNITED STATES BANKRUPTCY COURT FOR  
THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In Re:

Jean Michale Guerin,

Chapter 7

CASE NO. 18-10438

ORDER GRANTING TRUSTEE'S  
OBJECTION TO EXEMPTIONS

Debtor.

THIS MATTER having come regularly set before this Court that was set for hearing upon notice and motion by Michael P. Klein, the Chapter 7 trustee in this case ("trustee"). No objections were filed with the court. The court considered the pleadings that were filed, and now therefore it is

**ORDERED THAT:**

1. The trustee's objection to the debtor's blanket exemption claim that he is entitled to "100% of fair market value, up to any applicable limit" in any of his listed property is sustained.

2. The debtor is required to file an amended Schedule C without the 100% of fair market value language or the like within seven days after entry of this order.

ORDER GRANTING TRUSTEE'S  
OBJECTION TO EXEMPTIONS - 1

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1                           /// End of Order ///

2 Presented by:

3                           /s/Michael P. Klein  
4 Michael P. Klein, Chapter 7 Trustee

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26  
27 ORDER GRANTING TRUSTEE'S  
OBJECTION TO EXEMPTIONS - 2

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